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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Investigations of
the Power Outage December 2003

**PETITION FOR THE COMMISSION
TO EXTEND THE 30-DAY
CUSTOMER CLAIM PERIOD AND
OTHER RELIEF**

Docket No. 04-035-01

Pursuant to Commission Rule 746-100-3H, the Utah Committee of Consumer Services (“Committee”) petitions the Public Service Commission of Utah (“Commission”) to extend the 30-day after outage deadline specified in Utah Power & Light Company Electric Service Regulation No. 25 for customers, whose supply of electricity was interrupted during the December 26, 2003 storm and its aftermath, to file for credit under Customer Guarantee 1.

BACKGROUND

1. Utah Power & Light Company Electric Service Regulation No. 25 provides, in part, as follows:

General Rules and Regulations Customer Guarantees

This Rule provides general terms and conditions for the Company’s Customer Guarantees which are applicable to all active metered Customers or Applicants utilizing the services of the Company.

1. CUSTOMER GUARANTEE CREDIT:

For failure to meet a Customer Guarantee for Customer Guarantees 1 and 7, Customers must make a claim for compensation. Valid compensation claims for Customer Guarantees 1 and 7 submitted within 30 days of the date of an outage will be credited to the Customer's account.

2. DESCRIPTION OF CUSTOMER GUARANTEES:

a. Customer Guarantee 1: Restoring Supply After an Outage

In the event of an outage, the Company will restore a Customer's electric supply within 24 hours of being notified except where:

- (1) The Customer agreed to remain without supply
 - (2) The Company offered the Customer a generator as an alternative means of supply;
 - (3) There were problems or safety-related issues with the Customer's internal equipment; or
 - (4) Specialized equipment was required to restore the supply.
- ...

To receive a credit, a Customer must make a claim for compensation within 30 calendar days of the date of the outage. [Emphasis added.]

2. PacifiCorp stated at the January 6, 2004 technical conference convened by the Commission in consequence of the outages that "at the height of the storm" an estimated 70,000 utility customers were without service.¹ The total number of customers that lost electric power at some time during the period from December 26, 2003 through New Year's Day in the Salt Lake Valley and surrounding

¹Statement by Bob Moir, Senior Vice President of PacifiCorp. Reporter's Transcript of January 6, 2004 Proceedings, p.12, lines 14-18.

areas might, therefore, be substantially higher than 70,000. Ensuing customer complaints caused the Commission to open this docket for the purpose of investigating the outages.

3. At the January 6, 2004 technical conference, PacifiCorp stated it considered December 26, 2003 winter storm to be a “Major Event:”

And, as far as the PSC is concerned, Utah Power is declaring this as a major event – as putting forward as a major event, largely because of the number of customers affected, extended damage on our system and un – I mean, we see it as a force majeure event.²

However, the utility has yet to file an application requesting that the Commission declare the storm and outages a “Major Event,” which declaration, according to Section 3(6) of Utah Power & Light

²*Ibid.*, p. 14, lines 8-13.

Company Electric Service Regulation No. 25, would relieve the utility of any responsibility to make customer guarantee credit payments.³

³Section 3 provides:

Payment for the failure to meet a Customer Guarantee shall not be made if any of the following general exceptions occur: . . .

(6) Major events, such as storms.

Section 4 of the Regulation states:

Major Events for purposes of this rule are defined as: A catastrophic event which can:

- Exceed the design limits of the electric power system, or
- Cause extensive damage to the electric power system, or
- Result in more than 10-% of Customers in an operating area losing supply.

4. At the January 6, 2004 technical conference, PacifiCorp also agreed to undertake an investigation of the cause or causes of the outages and to submit to the Commission a report of its investigation – including a corrective action plan addressing “what needs to change and what we can do as a Commission to have changed circumstances.”⁴ The utility has since indicated it expects the investigation and report to take approximately two months.⁵ A period of weeks will thereafter be required for interested parties to evaluate the utility’s report; for a possible hearing; and for the Commission to rule on whether the December 2003 storm was a Major Event. The Committee has also reserved the right to hire its own consultants to examine the outages and, if necessary, to come back to the Commission and ask that the Commission order the Company to commission an outside investigation and report in the event the Committee considers the utility’s internal investigation and report inadequate.⁶

⁴Statement by Commission Chairman Campbell. Reporter’s Transcript of January 6, 2004 Proceedings, p. 104, lines 12-15.

⁵PacifiCorp’s December 2003 Storm Inquiry – Terms of Reference - Final (provided to the Committee in an e-mail from John Stewart, 8:57 a.m. on January 21, 2004), Item 10, “Inquiry Timetable and Methodology,” first bullet.

⁶Statement by Committee Director, Roger Ball. Reporter’s Transcript of January 6, 2004 Proceedings, p. 51, lines 15-24.

5. Commission Chairman Campbell, in discussing at the January 6 technical conference what the Commission would like to see included in the investigative report of the outage, stated the report should contain “what other states have in place as far as reliability standards and what sort of accountability is required of utilities in other states . . . [and] if our standards are par for the course or whether they could be updated or improved.”⁷ Division of Public Utilities Director, Irene Rees, stated the Division would like to see the utility’s tree-trimming program addressed in the report; and, in light of nine storm major events in the past three years, what the utility “is doing in their efforts to keep their facilities updated and their lines clear.”⁸

ARGUMENT

6. Because it will likely be several weeks, if not months, before the Commission is in a position to make a final determination whether the December 2003 storm was a Major Event, it would be unfair to expect PacifiCorp customers affected by the outage to file within the “30 calendar days of the date of the outage” deadline set forth in Utah Power & Light Company Electric Service Regulation No. 25. Many affected customers may not yet be aware of the possibility of a guarantee credit or the filing deadline requirement. Other affected customers likely believe that it would be premature to file a claim now, given the Commission’s announced intent to investigate the outages. Under the circumstances, all PacifiCorp customers in Utah who were affected by the power outage should be given reasonable notice of the pending investigation, the possibility of a guarantee credit, how to file a claim for same, *and reasonable opportunity* to so file with the utility.

⁷Reporter’s Transcript of January 6, 2004 Proceedings, p. 38, lines 10-22.

PETITION

7. Given these circumstances, the Committee respectfully petitions the Commission to suspend the 30-day after the event filing deadline set forth in Utah Power & Light Company Electric Service Regulation No. 25 until a reasonable time after the utility's investigation has been completed; its report and corrective action plan have been received and reviewed by the Commission, Division, Committee, and other interested parties; all those wishing to do so have had sufficient opportunity to inform the Commission of their views and conclusions; and the Commission has had the opportunity to consider all of the facts and arguments, and to rule on the same.

8. The Committee respectfully petitions the Commission to order that it will set a deadline for affected utility customers to file for guarantee credits once it has been determined whether the December 2003 storm was a "Major Event."

9. The Committee further respectfully petitions the Commission to order PacifiCorp now, during the interim prior to submission of its report and corrective action plan, to inform its customers, by means of an insert in the customer's billing statements, a message on billing envelopes, and/or through the advertizing media, of: (i) the pending Commission investigation of the storm and outages, (ii) the pending possibility that customers may be entitled to a guarantee credit for the outage, and (iii) when and how customers are to file a claim for guarantee credit.

Respectfully submitted this _____ day of January, 2004

⁸Reporter's Transcript of January 6, 2004 Proceedings, p. 40, lines 4-20.

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CERTIFICATE OF SERVICE

I certify that on this _____ day of January, 2004 I mailed an exact copy of the foregoing

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